

Charities Oversight Fund Senate File 2194

Last Action:

**Senate
State Government
Committee**

February 18, 2008

An Act providing for the oversight of persons organized or doing business in this state on a nonprofit basis, providing for fees, and making an appropriation.

**Fiscal Services Division
Legislative Services Agency**

NOTES ON BILLS AND AMENDMENTS (NOBA)

Available on line at <http://www3.legis.state.ia.us/noba/index.jsp>

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EXECUTIVE SUMMARY NOTES ON BILLS AND AMENDMENTS

SENATE FILE 2194 CHARITIES OVERSIGHT FUND

FUND CREATED

- Creates the Charities Oversight Fund in the State Treasury. (Page 1, Line 1)
- Permits interest or earnings to remain in the Fund. (Page 1, Line 14)
- Requires nonreversion of funds. (Page 1, Line 16)
- Specifies the purpose of the Fund. (Page 1, Line 20)

FEES IMPOSED

- Imposes a \$30 fee for filing a biennial report for certain non-profit corporations. The fee is \$25 every two years if the report is filed electronically and \$30 every two years if the report is not filed electronically. (Page 1, Line 29)

EXEMPTION

- Exempts mutual benefit corporations from paying the new fee. (Page 2, Line 9)

APPROPRIATION

- Appropriates \$150,000 and 2.0 FTE positions from the Charities Oversight Fund to the Office of the Attorney General for oversight functions of non-profit corporations. (Page 2, Line 16)

Senate File 2194

Senate File 2194 provides for the following changes to the Code of Iowa.

Page #	Line #	Bill Section	Action	Code Section	Description
1	1	1	New	Sec. 13.41	Charities Oversight Fund Created
1	14	1.2(a)	Nwthstnd	Sec. 12C.7	Interest or Earnings on the Fund
1	16	1.2(b)	Nwthstnd	Sec 8.33	Nonreversion of Fund Balance
1	20	1.3	New	13.41(3)	Use of Fund Proceeds
1	29	2	Amends	Sec. 504.113(1)(w)	Biennial Report Filing Fee
2	1	3	Amends	Sec. 504.1613(4)(b)	Filing Fees

1 1 Section 1. NEW SECTION . 13.41 CHARITIES OVERSIGHT FUND
1 2 == APPROPRIATION.

CODE: Creates the Charities Oversight Fund and specifies receipts to the Fund.

1 3 A charities oversight fund is created in the state
1 4 treasury.

1 5 1. The fund shall be administered by the treasurer of
1 6 state upon direction of the attorney general. The fund shall
1 7 include all of the following:

1 8 a. Moneys collected by the secretary of state for the
1 9 filing of biennial reports by domestic nonprofit corporations
1 10 as provided in section 504.1613.

1 11 b. Moneys appropriated to the fund and any other moneys
1 12 available to and obtained or accepted by the treasurer of
1 13 state for placement in the fund.

1 14 2. a. Notwithstanding section 12C.7, interest or earnings
1 15 on moneys in the fund shall be credited to the fund.

CODE: Requires interest or earnings to remain in the Fund.

1 16 b. Notwithstanding section 8.33, moneys in the fund that
1 17 remain unencumbered or unobligated at the end of the fiscal
1 18 year shall not revert, but shall remain available for the same
1 19 purpose in the succeeding fiscal year.

CODE: Requires nonreversion of funds.

1 20 3. Moneys in the fund are available only as provided by an
1 21 appropriation by the general assembly to the attorney general.
1 22 The appropriated moneys shall be used exclusively by the
1 23 attorney general for purposes of providing oversight,
1 24 including regulation, of persons organized or doing business
1 25 in this state on a nonprofit basis, including domestic
1 26 nonprofit corporations and domestic charitable trusts.
1 27 Nothing in this subsection expands the authority of the
1 28 attorney general to provide oversight of such persons.

CODE: Specifies appropriations from the Fund are to be used by the Attorney General for oversight functions related to non-profit corporations.

1 29 Sec. 2. Section 504.113, subsection 1, paragraph w, Code
1 30 Supplement 2007, is amended to read as follows:

CODE: Establishes a \$25.00 fee for filing the biennial report electronically. The fee for filing the report is \$30.00 if not filed

1 31 w. (1) Biennial report (not by electronic
 1 32 transmission) \$ —
 1 33 30
 1 34 (2) Biennial report (by electronic
 1 35 transmission)..... \$ 25

electronically.

FISCAL IMPACT: The fees are expected to generate \$300,000 annually. There are approximately 12,000 non-profit corporations registered with the Secretary of State that are required to pay a fee under this Bill. It is assumed they will all file electronically.

2 1 Sec. 3. Section 504.1613, subsection 4, paragraph b, Code
 2 2 2007, is amended to read as follows:
 2 3 b. A filing fee for the biennial report shall be assessed
 2 4 and collected by the secretary of state.
 2 5 (1) Except for the fees provided in subparagraph (2), the
 2 6 amount of the fee shall be determined by the secretary of
 2 7 state. The fees shall be deposited into the general fund of
 2 8 the state.

CODE: Conforming language to reflect the change that permits the Secretary of State to set filing fees for corporations that are not non-profits.

DETAIL: Current law permits the Secretary of State to determine the fees. Current practice requires a \$30.00 fee for for-profit corporations that file electronically and \$45.00 if not filed electronically. Currently, non-profit corporations are exempt.

2 9 (2) For a corporation other than a mutual benefit
 2 10 corporation, the amount of the fee is thirty dollars. However
 2 11 if, and to the extent permitted by the secretary of state
 2 12 pursuant to section 504.111, such corporation files a biennial
 2 13 report by electronic transmission, the amount of the fee is
 2 14 twenty-five dollars. The fees shall be deposited into the
 2 15 charities oversight fund as provided in section 13.41.

CODE: Sets the filing fee at \$25.00 for non-profit corporations every other year if the report is filed electronically. The fee is \$30.00 every other year if the report is not filed electronically. Mutual benefit corporations are exempt from the fee.

2 16 Sec. 4. APPROPRIATIONS. There is appropriated from the
 2 17 charities oversight fund created in section 13.41, as enacted
 2 18 in this Act, to the office of attorney general for the fiscal
 2 19 year beginning July 1, 2008, and ending June 30, 2009, the
 2 20 following amount, or so much thereof as is necessary, to be
 2 21 used for the purposes designated:
 2 22 For purposes of providing oversight, including regulation,
 2 23 of persons organized or doing business in this state on a
 2 24 nonprofit basis, as provided in section 13.41, as enacted in
 2 25 this Act, and for not more than the following full-time
 2 26 equivalent positions:

Charities Oversight Fund appropriation to the Office of the Attorney General.

DETAIL: This is a new Fund and a new appropriation for the Office of the Attorney General. The Office will hire one attorney and one investigator to provide oversight and regulation of non-profit corporations.

2 27 \$ 150,000

2 28 FTEs 2.00

2 29 EXPLANATION

2 30 This bill creates a charities oversight fund and provides
2 31 for an appropriation from the fund to the attorney general to
2 32 support the oversight, including regulation, of persons
2 33 organized or doing business in this state on a nonprofit basis
2 34 (other than mutual benefit corporations). The fund is
2 35 supported by moneys collected by the secretary of state from
3 1 domestic nonprofit corporations other than mutual benefit
3 2 corporations who must file a report each odd-numbered year
3 3 with the secretary of state. The amount of the fee is \$30
3 4 unless the secretary of state accepts documents in an
3 5 electronic format in which case the fee is \$25.

3 6 The bill provides that moneys in the fund must be
3 7 appropriated by the general assembly. The bill makes an
3 8 appropriation from the fund to support the oversight.

3 9 LSB 5288SV 82

3 10 da/nh/14

Justice System

Other Funds

	Actual FY 2007	Estimated FY 2008	Senate Subcom FY 2009	Senate Sub vs. Est 2008	Page and Line #
	(1)	(2)	(3)	(4)	(5)
<u>Justice, Department of</u>					
Justice, Department of Charities Oversight Fund	\$ 0	\$ 0	\$ 150,000	\$ 150,000	PG 2 LN 16
Total Justice, Department of	\$ 0	\$ 0	\$ 150,000	\$ 150,000	
Total Justice System	\$ 0	\$ 0	\$ 150,000	\$ 150,000	

Justice System

FTE

	Actual FY 2007	Estimated FY 2008	Senate Subcom FY 2009	Senate Sub vs. Est 2008	Page and Line #
	(1)	(2)	(3)	(4)	(5)
<u>Justice, Department of</u>					
Justice, Department of Charities Oversight Fund	0.00	0.00	2.00	2.00	PG 2 LN 16
Total Justice, Department of	0.00	0.00	2.00	2.00	
Total Justice System	0.00	0.00	2.00	2.00	